

The Review Board of the Indiana Department of Workforce Development (“Review Board”) adopted the determination of an Administrative Law Judge (“ALJ”) that Larry Carlin voluntarily quit his job at J & J Packaging Company without good cause and was not entitled to unemployment benefits. Carlin appeals, contending that the Review Board’s decision that he voluntarily quit is contrary to law. We affirm.

As provided by statute, the Review Board’s decision “shall be conclusive and binding as to all questions of fact.” Perfection Bakeries, Inc. v. Review Bd. of Dep’t of Workforce Dev., 783 N.E.2d 736, 739 (Ind. Ct. App. 2003) (quoting Ind. Code § 22-4-17-12(a)). When Review Board decisions are challenged as contrary to law, we examine “the sufficiency of the facts found to sustain the decision and the sufficiency of the evidence to sustain the findings of fact.” *Id.* (quoting Ind. Code § 22-4-17-12(f)).¹

“[A]n individual who has voluntarily left the individual’s most recent employment without good cause in connection with the work or who was discharged from the individual’s most recent employment for just cause” is ineligible for unemployment benefits. Ind. Code § 22-4-15-1(a). The single hearing member initially denied benefits to Carlin because he was discharged for insubordination. In the proceedings before the ALJ, J & J Packaging claimed that Carlin voluntarily left his employment without good cause; Carlin contended that he was discharged without just cause. The Review Board, by adopting the ALJ’s findings of fact,

¹ Appellate review of the Review Board’s findings of basic facts is subject to a substantial evidence standard of review. McClain v. Review Bd. of the Ind. Dep’t of Workforce Dev., 693 N.E.2d 1314, 1317 (Ind. 1998). These findings are usually conclusive and binding, see Ind. Code § 22-4-12-17(a), unless they fall within one of several exceptions for which the court may reverse, see McClain, 693 N.E.2d at 1317 n.2. We disagree with Carlin’s contention that the findings in his case fall within one of those exceptions: that the

found that on June 14, 2006, Carlin advised his manager that the task he had been assigned to perform alone was a two-person task, and that he was not going to perform the task by himself. The manager brought Carlin into his office to discuss the matter. During the discussion, the manager asked for Carlin's badge. Carlin threw the badge down, left the office, and then left the premises before the end of his shift. He did not return at any time during the remainder of his shift. "The claimant was not advised that he was being sent home for the night. The claimant was not advised that he was being suspended. The claimant at no time was told that he was discharged." Appellant's Appendix at 90. The Review Board concluded that as there was no indication Carlin was going to be terminated, he quit his employment by leaving, and "the decision in favor of the employer is proper and is affirmed although reached by a different route." Id. at 91.

Carlin contends on appeal that the conclusion that he voluntarily quit his employment is unreasonable because the findings supporting that conclusion are based in part on hearsay evidence that should not have been considered; because the remaining evidence fails to support the findings; and because the findings do not support the conclusion.

The question of whether an employee voluntarily terminated employment without good cause is a question of fact to be determined by the Review Board. Indianapolis Osteopathic Hosp., Inc. v. Jones, 669 N.E.2d 431, 433 (Ind. Ct. App. 1996). Even if we disregard the evidence Carlin contends the Review Board should not have considered, there is sufficient evidence to support the Review Board's findings and conclusion. Carlin testified

quantum of legitimate evidence was so proportionately meager as to lead to the conviction that the finding

that after he expressed his dissatisfaction with his assigned task, his manager told him that he would not “tolerate [an] employee questioning my authority out on the floor.” Tr. at 21. Carlin replied that he would question the manager’s authority “out on the floor and here in the office or anywhere else when you’re wrong.” Id. The manager asked for Carlin’s badge and Carlin said he “took it out of my pocket, threw it down on the flo . . . on the chair and it fell off on the floor. Since he told me he didn’t wa . . . wasn’t arguing, I figured ‘well, he fired me.’ I walked out of the office and left” Id. Carlin testified that the manager never said he was fired and never asked him to leave, but because “he got mad and asked me for my badge[,] I figured, ‘well, he just fired me.’” Id. He also testified that when he had been suspended previously, he was asked for his badge at that time. Id. at 26.

The Review Board’s determination that Carlin voluntarily quit his employment is not unreasonable under the circumstances, and we therefore affirm the Review Board’s order denying Carlin unemployment benefits.

Affirmed.

VAIDIK, J., concurs.

SULIVAN, J., concurs in result.